



STATE OF CALIFORNIA  
**FRANCHISE TAX BOARD**  
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MICHAEL C. GENEST  
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January 10, 2007

Kim Kastl  
Vicki Mulak  
California Society of Enrolled Agents  
3200 Ramos Circle  
Sacramento, CA 95827-2513

Dear Ms. Kastl and Ms. Mulak:

I want to thank both of you for sending a proposal and attending FTB's 2006 Taxpayers' Bill of Rights Hearing. Below are responses to the issues you raised.

*Seek legislation to conform to the Pension Protection Act of 2006 (PPA), Health Savings Accounts (MPDIMA), retroactive contributions to IRA's by military (HERO), and the Tax Increase Prevention and Reconciliation Act 2005 (TIPRA, 05)*

HERO Act: Revisions made by the federal HERO Act, which permit retroactive contributions to IRAS by members or the military serving in a combat zone are applicable for California purposes.

PPA 2006 and TIPRA: Under specific provisions of the Revenue and Taxation Code, federal changes to certain pension provisions of the Internal Revenue Code are automatically applicable for California purposes without legislative action. Consequently, some of the changes made by PPA 2006 are automatically applicable for California purposes. Details regarding this aspect of PPA 2006 will be reflected in FTB's annual report of federal changes. In addition, information regarding changes in PPA 2006 applicable for the 2006 taxable year is available on our Website and in the instructions for filing the 2006 tax return. The same concepts apply to TIPRA.

FTB staff is the foundation of the conformity bill process each year. It begins with the Revenue and Taxation Code requirement for the department to provide the Legislature with a report summarizing federal income tax law changes from the prior congressional session. That report is delivered to the Legislature during January or February each year. Once the report is received by the Legislature, the staff of the Assembly Revenue and Taxation Committee convenes a meeting of interested parties to gather input on what provisions, if any, should be included in a conformity bill.

FTB staff provides extensive technical support each year to the Assembly committee staff on all provisions of California income tax law out of conformity

with federal income tax law. The technical support provided includes a master list of nonconforming statutes, a technical explanation of each non-conforming provision, a revenue estimate for each nonconforming provision of the impact to conform, a summary of the impact to taxpayers and the department of not conforming, and any other pertinent information.

After the Assembly Revenue and Taxation Committee staff completes the process of gathering information and input, the committee chair determines whether to proceed with a conformity bill and what provisions shall be included in the bill.

Due to the established practice of developing conformity bills, as a matter of "legislative protocol," introduction of conformity bills is proprietary to the Assembly Revenue and Taxation Committee chair.

I will keep you informed of any information we receive about conforming legislation.

*Seek legislation to reduce the filing burden for reporting wages for domestic workers.*

While FTB and EDD are generally amendable to changes that ease the burden of the taxpayer, we have not been able to find a resolution for this issue that does not create problems with preserving the rights of "domestic" employees. Specifically, one of those rights is the timely payment of entitled benefits under the UI and DI program. EDD requires wage data on a quarterly basis in order to determine timely eligibility and benefit amounts. The federal government does not require this information quarterly because the administration of the UI program is delegated to the states. For state purposes, if employers reported and paid "domestic" employee taxes on the employer's individual personal income tax return, EDD would not have the ability to provide timely benefits. Any suggestions you have that would alleviate the UI and DI program concerns would be most appreciated.

*Seek legislation to create a reasonable cause provision for the "amnesty" penalty.*

An FTB sponsored proposal to have a reasonable cause exception was in a bill last year. Unfortunately, the bill was not successful. Brian Putler, Director of our Legislative Services Bureau, contacted the author's office about two months ago and was told they were giving serious consideration to introducing the proposal again in this session. You may want to follow up on this issue with Assembly Member Walter's office.

If you have any further questions or comments, please feel free to contact me anytime.

Kim Kastl  
Vicki Mulak  
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Sincerely,

Debbie Newcomb  
Taxpayer Advocate

cc: Hon. John Chiang  
Hon. Betty T. Yee  
Hon. Michael C. Genest  
Marcy Jo Mandel  
Alan LoFaso  
Anne Maitland